

DEPARTMENTAL CORRESPONDENCE

TO: James R. O'Connor
City Manager

FROM: Timothy J. McGarry, AICP
Director of Planning and Development

DATE: October 22, 2015

SUBJECT: **First Reading of Draft Ordinance to Amend Chapter 62, Article III, C-1, C-1B, B-1, and C-1 Commercial Districts and Article X, Downtown District to Provide for Government Use as a Permitted Use**

Overview

The Planning and Development requests that the attached draft Ordinance be placed on the City Council's November 3rd meeting for First Reading. Since the draft Ordinance amends the list of permitted uses in each of these districts, it will require two public hearings.

Background

The details and supporting information on the proposed text amendments are provided in the attached staff report provided for the Planning and Zoning Board's October 15th public hearing. The Planning and Zoning Board unanimously recommended approval of the draft Ordinance at that public hearing.

SWOT Analysis

The following is a summary of a SWOT analysis of the most significant elements and effects of the proposed draft ordinance:

Strengths

- Provides increased flexibility to public agencies in the location of governmental services and facilities.
- Reduces dependence upon the Planning Director to make written land use interpretations related to determining if a specific governmental use is a use allowed in a specific zoning district.
- Provides a "quick fix" to an immediate problem, which in the long term needs to be addressed in a comprehensive revision of the City's zoning districts, allowable uses in uses, and definitions of these uses.

Weaknesses

- May raise concerns that “government use” is too broad a term that may allow unwanted governmental uses into a neighborhood.

Opportunities

- Provides an immediate opportunity to allow construction of a bus shelter on vacant land and will provide future opportunities to allow this government use and other types of public uses and facilities where needed in the City's downtown and commercial zoning districts.

Threats

- Leads to unnecessary delays and barriers to the efficient provision of governmental facilities and services if not enacted.

Recommendation

The Planning and Zoning Board and the Planning and Development Department staff recommend approval of the draft Ordinance.

TJM/tf
Attachments

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 62, ARTICLE III, C-1A, C-1B, B-1, AND C-1 COMMERCIAL DISTRICTS, AND ARTICLE X, DOWNTOWN DISTRICT, OF PART III, LAND DEVELOPMENT REGULATIONS, IN THE CODE OF THE CITY OF VERO BEACH, TO PROVIDE FOR GOVERNMENT USE AS A PERMITTED USE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 60, Definitions, of Part III, Land Development Regulations defines *government use* as “administrative offices, service facilities, parking lots or garages, utility facilities, or accessory structures relating to the provision of federal, state, and local government services;” and

WHEREAS, the list of permitted uses in the C-1A, C-1B, B-1, and C-1 Commercial Districts and the Downtown District (“Districts”) does not currently include *government use*, as an allowable use in said Districts; and

WHEREAS, the type of uses classified under the *government use* definition are complementary and compatible with the permitted uses listed for said Districts; and

WHEREAS, the absence of *government use* as a permitted use in these Districts hampers the flexibility of the City and other local governments to efficiently provide services such as the installation of GoLine bus shelters on vacant property within said Districts; and

WHEREAS, the inclusion of *government use* as a permitted use in the Districts will further clarify the Code of the City of Vero Beach (“Code”) and ease its application by limiting the need for the Planning Director to make interpretations related to public uses which don’t neatly fit the Code’s definition for a listed permitted use in those Districts; and

WHEREAS, the City Council of the City of Vero Beach (“City Council”) finds it is desirable for the improvement of the administration of the City’s Land Development Regulations that these text amendments be adopted to clarify the intent and application of the City’s zoning standards and criteria; and

WHEREAS, the City Council finds that adoption of the amendments provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

Section 1. Adoption of “Whereas” Clauses.

The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose and intent of this Ordinance.

Section 2. Amendment of Section 62.35. Permitted Uses, of Article III, C-1A, C-1B, B-1, and C-1, Commercial Districts.

Section 62.35 is hereby amended as follows:

Sec. 62.35. - Permitted uses.

In these districts a building or premises may be used only for the following purposes. ~~Site plan review is required for all uses in this district:~~

<i>Uses</i>	<i>Zoning Districts</i>			
	<i>C-1A</i>	<i>C-1B</i>	<i>B-1</i>	<i>C-1</i>
Administrative Services	P	P	P	P
Adult Congregate Living Facility				P
Business and Professional Offices	P	P	P	P
Day Care Services		P		
Commercial Amusements				P
Cultural and Civic Activities	P	P	P	
Financial Institutions	P	P	P	P
Fire Stations	P	P	P	P
Funeral Homes		P		P

General Retail Sales and Services		P	P	P
<u>Government Use....</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Guest House and Transient Quarters	P			P
Hotels and Motels	P			P
Medical Services	P	P	P	P
Multiple-Family Residences	P			
Nonprofit Clubs	P	P		P
Nursing or Convalescent Home				P
Parking Lots and Garages	P	P	P	P
Places of Worship	P	P	P	P
Plant Nurseries		P		P
Public and Private Utilities	P	P	P	P
Recreation and Park Areas	P	P	P	P
Restaurants	P*	P	P	P
Restricted Sales and Services	P	P	P	P
Self-Service Storage Facilities		P		P
Trade Service and Repair		P		P

Vehicular Sales and Services				P
Veterinary Services		P		P
Wholesale Trades and Services		P		P
Accessories to Permitted Uses	P	P	P	P

P=Permitted Use

*Excluding drive-ins, drive-throughs and food service establishments primarily providing meals intended for off-premises consumption and enclosed or wrapped or packaged in any form.

Section 3. Amendment of Section 62.301. Permitted Uses, of Article X. Downtown District.

Section 62.301 is hereby amended as follows:

Sec. 62.301. Permitted uses.

In this District, the following uses are permitted

- (1) Accessories to permitted uses.
- (2) Administrative services.
- (3) Clubs.
- (4) Commercial amusements.
- (5) Cultural/civic activities.
- (6) Day care services.
- (7) Duplexes.
- (8) Educational institutions.
- (9) Efficiency apartments.
- (10) Financial institutions.
- (11) Fire stations.

- (12) Funeral homes.
- (13) General and restricted retail.
- (14) Government use.
- ~~(14)~~(15) Guesthouse/transient quarters.
- ~~(15)~~(16) Hotels and motels.
- ~~(16)~~(17) Medical services.
- ~~(17)~~(18) Multiple-family residential.
- ~~(18)~~(19) Park and recreation areas.
- ~~(19)~~(20) Parking lots and garages.
- ~~(20)~~(21) Personal services.
- ~~(21)~~(22) Places of worship.
- ~~(22)~~(23) Plant nurseries.
- ~~(23)~~(24) Professional offices.
- ~~(24)~~(25) Radio/TV stations.
- ~~(25)~~(26) Restaurants.
- ~~(26)~~(27) Single-family residential.
- ~~(27)~~(28) Trade service and repair.
- ~~(28)~~(29) Utility facilities.

Section 4. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

Section 5. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 6. Effective Date.

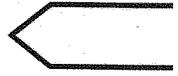
This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2015, and was advertised on the ___ day of _____, 2015, as being scheduled for a public hearing to be held on the _____ day of _____, 2015, and was also advertised on the _____ day of _____, 2015, as being scheduled for a second public hearing to be held on the _____ day of _____, 2015, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

- Mayor Richard G. Winger _____
- Vice Mayor Jay Kramer _____
- Councilmember Pilar E. Turner _____
- Councilmember Amelia Graves _____
- Councilmember Randolph B. Old _____

ATTEST:

CITY OF VERO BEACH, FLORIDA



Tammy K. Vock
City Clerk

Richard G. Winger
Mayor

[SEAL]
Approved as to form and legal
sufficiency:

Approved as conforming to municipal
policy:

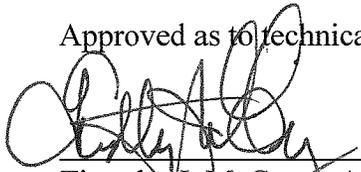


Wayne R. Coment
City Attorney



James R. O'Connor
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Director, Planning & Development

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Larry Lauffer and Planning and
Zoning Board Members

FROM: Timothy J. McGarry, AICP 
Director of Planning and Development

DATE: October 8, 2015

SUBJECT: **Public Hearing on Proposed Amendments to Chapter 62, Article III,
C-1A, C-1B, B-1, and C-1 Commercial Districts and Article X,
Downtown District to Provide for Government Use as a Permitted Use**

Overview

The staff has prepared the attached draft Ordinance amending the text of the City's Land Development Regulations to allow *government use* as an allowable, permitted use in the C-1A, C-1B, B-1, C-1 and Downtown zoning districts.

Background

The need for the proposed text amendment was precipitated by the proposed location of a needed GoLine shelter on vacant Indian River County-owned land near the County Courthouse. If an existing principal use occupied the property, the shelter could be permitted as an accessory use. Unfortunately, as the property is currently vacant, the proposed bus shelter cannot be approved at this location since a bus shelter is not a listed principal use in the Downtown zoning district.

Rather than simply prepare a text amendment to list a "bus shelter" as a principal use in the Downtown zoning district, the staff decided to also include the four above referenced commercial zoning districts and expand the scope of government uses to be included in these districts. As proposed, the text amendment would provide more flexibility in the locating of necessary governmental services and facilities.

Chapter 60, Appendix, Definitions, defines *government use* as "administrative offices, service facilities, parking lots or garages, utility facilities, or accessory structures relating to the provision of federal, state, and local government services." This use definition is very broad and provides government flexibility in locating government services without the need to result to interpretations from the Planning Director or adding a specific list of government uses in each of the districts as discussed below. [Note: *Government use* is a listed use in the ALI-A1, ALI-1, Mixed Use, and Government Use zoning districts.]

In reviewing the list of allowable uses in the C-1A, C-1B, B-1, C-1, and the Downtown districts, the staff finds that *government use* is compatible with uses already allowed in these commercial

districts. *Government use* clearly applies to the proposed GoLine shelter as the structure is a service facility, needed for public transit.

A related benefit with this approach is that it reduces the need for formal interpretation by the Planning Director, which arises in determining if a specific governmental use is a use permitted in a zoning district. Section 60.06(a) of the Code states that “no use shall be allowed in a zoning district unless it is specifically listed as a permitted, conditional, or special permit use in that district.”

For example, under the C-1A, C-1B, B-1, and C-1 and Downtown zoning districts, *administrative services* is a permitted use. One would reach the logical conclusion that this use should include general government office uses. However, Chapter 60, Appendix, Definitions, defines *administrative services* as: “activities typically performed by not-for-profit private or public social services.”

Pursuant to Section 60.06(b), the Planning Director would be required to make a written interpretation that such general government office use is a reasonable fit with the use category of *administrative services*. Any such determination is always subject to appeal and legal challenge and unduly complicates administration of the Land Development Regulations.

[Note: This proposal is intended as a “quick fix” to the problem. The real need is for a comprehensive evaluation of the City’s zoning districts, the allowable uses in these districts, and the definitions of these uses. Such an evaluation should be undertaken subsequent to the adoption of the Comprehensive Plan Update in the first quarter of next year.]

Summary of Proposed Text Amendment

The proposed text amendment will incorporate *government use* in the C-1A, C-1B, B-1, C-1, and Downtown zoning districts.

Staff Review and Analysis

The staff reviewed the proposed text amendments to the Land Development Regulations based on the standards outlined in Section 65.22(i)(1) and (3) of the Vero Beach Code. The staff’s analysis and findings are as follows:

Justification for the Amendment. The proposed text amendment is needed to allow the installation of a GoLine shelter on vacant property in the Downtown zoning district and to provide more flexibility and limit the need for official interpretation by the Planning Director related to government uses in the C-1A, C-1B, B-1, C-1A, and Downtown zoning districts. The staff finds the proposed text amendments to be justified and warranted pursuant to Section 65.22(i)(1) based upon the above facts.

Consistency with the Comprehensive Plan. The staff finds the proposed text amendments to be consistent with the one relevant objective of the Land Use Element of the Comprehensive Plan as discussed below:

- **Land Use Objective 3.** *The City shall establish and maintain land use/development regulations that will reduce and prevent land uses that are inconsistent with community character and incompatible with adjacent development.*

The Comprehensive Plan provides little or no guidance on the proposed text amendment; however, Objective 3 does call for establishing and maintaining land use/development regulations that protect the community character and are compatible with adjacent development. As discussed in Background above, the types of uses classified under *government use* are compatible with uses found in the C-1A, C-1B, B-1, C-1A, and Downtown zoning districts.

Consistency with Land Development Regulations. The types of uses classified under the definition of *government use* are compatible with other uses in the five zoning districts. The proposed ordinance will enhance the interpretation and administration of the Land Development Regulations. Therefore, the staff finds the proposed text amendment is consistent with the Land Development Regulations due to the aforementioned reasons.

Recommendation

The staff recommends Planning and Zoning Board approval of the attached draft Ordinance for transmittal to the City Council for favorable action.

TJM/tf
Attachment

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WHEREAS, the inclusion of *government use* as a permitted use in the Districts will further clarify the Code of the City of Vero Beach (“Code”) and ease its application by limiting the need for the Planning Director to make interpretations related to public uses which don’t neatly fit the Code’s definition for a listed permitted use in those Districts; and

WHEREAS, the City Council of the City of Vero Beach (“City Council”) finds it is desirable for the improvement of the administration of the City’s Land Development Regulations that these text amendments be adopted to clarify the intent and application of the City’s zoning standards and criteria; and

WHEREAS, the City Council finds that adoption of the amendments provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

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<i>Uses</i>	<i>Zoning Districts</i>			
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Business and Professional Offices	P	P	P	P
Day Care Services		P		
Commercial Amusements				P
Cultural and Civic Activities	P	P	P	
Financial Institutions	P	P	P	P
Fire Stations	P	P	P	P
Funeral Homes		P		P

General Retail Sales and Services		P	P	P
<u>Government Use....</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
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Medical Services	P	P	P	P
Multiple-Family Residences	P			
Nonprofit Clubs	P	P		P
Nursing or Convalescent Home				P
Parking Lots and Garages	P	P	P	P
Places of Worship	P	P	P	P
Plant Nurseries		P		P
Public and Private Utilities	P	P	P	P
Recreation and Park Areas	P	P	P	P
Restaurants	P*	P	P	P
Restricted Sales and Services	P	P	P	P
Self-Service Storage Facilities		P		P
Trade Service and Repair		P		P

Vehicular Sales and Services				P
Veterinary Services		P		P
Wholesale Trades and Services		P		P
Accessories to Permitted Uses	P	P	P	P

Section 3. Amendment of Section 62.301. Permitted Uses, of Article X. Downtown District.

Section 62.301 is hereby amended as follows:

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- (9) Efficiency apartments.
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- (12) Funeral homes.
- (13) General and restricted retail.

(14) Government use.

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~~(17)~~(18) Multiple-family residential.

~~(18)~~(19) Park and recreation areas.

~~(19)~~(20) Parking lots and garages.

~~(20)~~(21) Personal services.

~~(21)~~(22) Places of worship.

~~(22)~~(23) Plant nurseries.

~~(23)~~(24) Professional offices.

~~(24)~~(25) Radio/TV stations.

~~(25)~~(26) Restaurants.

~~(26)~~(27) Single-family residential.

~~(27)~~(28) Trade service and repair.

~~(28)~~(29) Utility facilities.

Section 4. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

Section 5. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 6. Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2015, and was advertised on the ___ day of _____, 2015, as being scheduled for a public hearing to be held on the _____ day of _____, 2015, and was also advertised on the _____ day of _____, 2015, as being scheduled for a second public hearing to be held on the _____ day of _____, 2015, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

- Mayor Richard G. Winger _____
- Vice Mayor Jay Kramer _____
- Councilmember Pilar E. Turner _____
- Councilmember Amelia Graves _____
- Councilmember Randolph B. Old _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Richard G. Winger
Mayor

[SEAL]

Approved as to form and legal
sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal
policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Timothy J. McGarry. AICP
Director, Planning & Development